

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

ORIGINAL
RECEIVED

JUN - 7 1995

FEDERAL COMMUNICATIONS COMMISSION
(OFFICE OF SECRETARY)

In the Matter of)
)
Preparation for International) IC Docket No. 94-31
Telecommunications Union World)
Radiocommunication Conferences)
)

DOCKET FILE COPY ORIGINAL

AMERICAN PETROLEUM INSTITUTE
RESPONSE
TO
JOINT SUPPLEMENTAL REPLY COMMENTS

The American Petroleum Institute ("API"), by its attorneys, hereby respectfully submits this Response to Joint Supplemental Reply Comments ("Response"), to address the Joint Supplemental Reply Comments ("Joint Comments") filed on May 18, 1995 by pending applicants for new or modified facilities in the Non-Voice, Non-Geostationary Mobile Satellite Service ("NVNG MSS").^{1/} In particular, API strongly objects to the NVNG MSS proposal to operate on the oil spill response channel at 459.000 MHz.^{2/}

^{1/} The Joint Commentors are comprised of: CTA Commercial Systems, Inc.; E-SAT, Inc.; Final Analysis Communication Services, Inc.; GE American Communications, Inc.; LEO ONE USA Corporation; Orbital Communications Corporation; Starsys Global Positioning, Inc.; and Volunteers in Technical Assistance.

^{2/} This filing addresses only the Private Land Mobile Service spectrum and should not be construed as a concurrence or endorsement of NVNG MSS proposals for other bands.

No. of Copies rec'd _____
List ABCDE _____

I. PRELIMINARY STATEMENT

1. API is a national trade association representing approximately 300 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing, and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies. The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. One of the Telecommunications Committee's primary functions is to evaluate and develop responses to federal and state proposals affecting telecommunications services and facilities used in the oil and gas industries. Consistent with that mission, it also reviews and comments, where permitted, on other proposals that impinge on the ability of the energy industries to meet their telecommunications needs.

2. API members are involved in every aspect of the petroleum and natural gas business, overseeing the recovery, refining and transport of petroleum products and natural gas. These products are transported through pipelines, over rail, highways, sea lanes and inland waterways. In the event of an emergency at a refinery, drilling site or during

transport, the petroleum industry relies on the use of its oil spill response frequency assignments to direct containment and cleanup programs. Timely and efficient responses are essential to successful recovery efforts, where delay or confusion can lead to disastrous results and unwarranted additional damage to life, property and the environment.

3. The NVNG MSS Joint Comments supplement previous comments submitted by the NVNG MSS parties in this proceeding concerning the 1995 World Radiocommunication Conference ("WRC-95").^{3/} Those previous comments targeted a wide range of Land Mobile Radio Service spectrum allocations. In their Joint Supplemental Reply Comments, the NVNG MSS proponents abdicated consideration of almost all Private Land Mobile Radio Service spectrum for reallocation to NVNG MSS uses. However, one private land mobile channel remains affected by the NVNG MSS proposal. The NVNG MSS service uplink proposal for 459-460 MHz contains a 25 kHz channel at 459.000 MHz, which is allocated to the Petroleum Radio Service and specifically dedicated for communications related to oil spill containment and clean up activities. 47 C.F.R. § 90.65(b).

^{3/} FCC 95-36, (Released: January 31, 1995).

II. RESPONSE

A. NVNG MSS Proponents' Engineering Data is Fatally Flawed

4. The Joint Comments state that NVNG MSS uplinks can effectively share with the operations of the Domestic Public Land Mobile Radio Service (DPLM) at 459-460 MHz.^{4/} It is further stated that the Engineering Statement accompanying the Joint Comments concludes that sharing of the band is practical.^{5/} API disagrees. The Engineering Statement is fatally flawed regarding the 25 kHz channel at 459.000 MHz.

5. API submits that the Engineering Statement neglected to properly analyze the impact of sharing on the 459.000 MHz channel and only analyzed the practicality of sharing with DPLM. Beyond recognizing that the 459.000 MHz channel exists for oil spill containment and clean up operations, the Engineering Statement contains no hard data as to why the proposed NVNG MSS sharing will not disrupt operations on that channel.^{6/} The Engineering Statement

^{4/} Joint Comments at 12.

^{5/} Joint Comments, Appendix A, Engineering Statement Re Comments in IC Docket No. 94-31 Review and Analysis of Spectrum Between 100-512 MHz for Sharing With NVNG MSS Services, May 1995, Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio and Television, Washington, D.C.

^{6/} Id. at 4-5.

only notes that "it is reported" that the entire 459-460 MHz band does not enjoy active use and that scanner monitoring of the entire band during regular business hours in the Washington, D.C. area revealed "very few transmissions within this band during the monitoring period."^{7/} Based on this scanty, and wholly inadequate assessment, the Engineering Statement concluded that the band experiences only low and intermittent usage levels and thus the entire band, including the 459.000 MHz channel, should be free for NVNG MSS sharing.^{8/}

6. This analysis reveals a basic misunderstanding of, and dangerous disregard for, the fundamental purpose of the Petroleum Radio Service oil spill response channel. The 459.000 MHz channel is licensed on a secondary basis to Petroleum Radio Service licensees for day-to-day operations. These licensees purposely do not utilize the channel for heavy traffic loads because the main purpose of the channel is to keep it clear for communications directly related to oil spill and containment operations. In the event of an oil spill or containment operation, the secondary users must immediately cease operations. The danger of substantial and harmful interference caused by NVNG MSS service uplinks to

^{7/} Id. at 5.

^{8/} Id.

primary oil spill and containment operations on this channel is intolerable. Oil spill and containment operations can occur practically anywhere and at anytime throughout the nation. API respectfully submits that the NVNG MSS proposal for use of the channel should be summarily rejected.

7. The Engineering Statement notes that up to 20 earth stations throughout the continental United States would operate with 459-460 MHz feeder uplinks.^{2/} API submits that the public interest would not be served by denying oil spill and containment coverage to the people and property affected by important spill and containment operations in those 20 areas.

8. API asks that this 25 kHz channel be removed from consideration for NVNG MSS operations. The Joint Comments contain a change in position on allocations by NVNG MSS proponents which concedes that land mobile spectrum is heavily utilized and that any sharing with non-geostationary MSS below 1 GHz would cause substantial and harmful interference to the land mobile services. It would be most unfortunate if the only land mobile channel targeted was one

^{2/} Id.

dedicated for communications directly related to oil spill containment and cleanup activities.

WHEREFORE, THE PREMISES CONSIDERED, API respectfully requests the Federal Communications Commission recommend that the United States refrain from seeking a worldwide allocation at WRC-95 for NVNG MSS operations at 459.000 MHz or in any other land mobile spectrum in accordance with the recommendation made herein.

Respectfully submitted,

AMERICAN PETROLEUM INSTITUTE

By: Wayne V. Black
Wayne V. Black
Joseph M. Sandri, Jr.

Keller and Heckman
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001
(202) 434-4100

Its Attorneys

Dated: June 7, 1995

CERTIFICATE OF SERVICE

I, Patt Meyer, a secretary in the law firm of Keller and Heckman, do hereby certify that a copy of the foregoing RESPONSE TO JOINT SUPPLEMENTAL REPLY COMMENTS has been served this 7th day of June, 1995, by mailing U.S. first class, postage prepaid, to the following:

Ms. Regina Keeney*
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W.
Room 5336
Washington, D.C. 20554

Ms. Kristi Kendall*
Satellite & Radio Communication Division
International Bureau
Federal Communications Commission
2000 M Street
Suite 590, Room 517
Washington, D.C. 20554

Ms. Audrey Allison*
Satellite & Radio Communications Division
International Bureau
Federal Communications Commission
2000 M Street - 8th Floor
Washington, D.C. 20554

Mr. Damon Ladson*
Satellite & Radio Communications Division
International Bureau
Federal Communications Commission
2000 M Street - 8th Floor
Washington, D.C. 20554

ITS, Inc.
2100 M Street, N.W.
Suite 140
Washington, D.C. 20037

Thomas Keller, Esquire
Verner, Liipfert, Bernhard,
McPherson & Hand, Chartered
901 15th Street, N.W.
Suite 700
Washington, D.C. 20005
Counsel for AAR

William K. Keane, Esquire
Winston & Strawn
1400 L Street, N.W.
8th Floor
Washington, D.C. 20005-3502
Counsel for MRFAC

Robert Mazer, Esquire
Shelly Sadowsky, Esquire
Rosenman & Colin
1300 19th Street, N.W.
Suite 200
Washington, D.C. 20036
Counsel for LEO ONE USA Corp.

Leslie Taylor
Leslie Taylor Associates
6800 Carlynn Court
Bethesda, MD 20817-4302
Counsel for E-SAT, Inc.

Ron Jarvis, Esquire
Catalano & Jarvis
1101 30th Street, N.W.
Suite 300
Washington, D.C. 20007
Counsel for Final Analysis Communications
Services, Inc.

Peter Rohrbach, Esquire
Hogan & Hartson
Columbia Square Building
555 - 13th Street, N.W.
Washington, D.C. 20004-1109
Counsel for GE American Communications, Inc.

Stephen L. Goodman, Esquire
Halprin, Temple & Goodman
1100 New York Avenue, N.W.
Suite 650 - East Tower
Washington, D.C. 20005
Counsel for Orbital Communications Corporation

Raul R. Rodriguez, Esquire
Leventhal, Senter & Lerman
2000 K Street, N.W.
Suite 600
Washington, D.C. 20006-1809
Counsel for Starsys Global Positioning, Inc.

Henry Goldberg, Esquire
Joseph Godles, Esquire
Goldberg, Godles, Weiner & Wright
1229 19th Street, N.W.
Washington, D.C. 20036
Counsel for Volunteer in Technical Assistance

Robert L. Hoggarth
PCIA
1501 Duke Street
Alexandria, VA 22314

Robert M. Gurss
Wilkes, Artis, Hedrick
& Lane, Chartered
1666 K Street, N.W.
Washington, D.C. 20006
Counsel for APCO

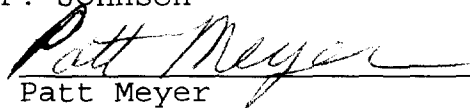
Jill A. Stern, Esquire
Shaw, Pittman, Potts
& Trowbridge
2300 N Street, N.W.
Washington, D.C. 20037-1128
Counsel for CTA Commercial Systems, Inc.

Jeffrey L. Sheldon, Esquire
General Counsel
UTC, The Telecommunications Association
1140 Connecticut Avenue, N.W.
Suite 1140
Washington, D.C. 20036

R. Michael Senkowski, Esquire
Carl Grant, Esquire
Wiley Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20036
Counsel for Motorola

Mr. Mark E. Crosby
Frederick J. Day, Esquire
Industrial Telecommunications Association, Inc.
1110 N. Glebe Road
Suite 500
Arlington, Virginia 22201-5720

Russell H. Fox, Esquire
Susan H. Jones, Esquire
Gardner, Carton & Douglas
1301 K Street, N.W., East Tower
Suite 900
Washington, D.C. 20005
Counsel for E.F. Johnson


Patt Meyer

* - Indicates Hand Delivery